

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

UNITED STATES OF AMERICA,

vs.

JOSHUA JAY BLAINE,

Defendant.

1:16-CR-10021-RAL

**ORDER ON MOTION FOR
COMPASSIONATE RELEASE**

Defendant, Joshua Jay Blaine, made a motion requesting court appointed counsel for the purposes of filing a compassionate release motion under the First Step Act's amendment to 18 U.S.C. § 3582(c)(1)(A). Doc. 44. Blaine's motion was construed as a motion for compassionate release pursuant to the Amended Standing Order 20-06, and his case was categorized as Low Priority on October 30, 2020. Doc. 45. On November 18, 2020, the Federal Public Defender for the Districts of South Dakota and North Dakota docketed a notice of intent not to supplement Blaine's motion. The United States opposes the motion. Doc. 47. For the following reasons, this Court denies defendant's motion for compassionate release.

On October 31, 2016, Blaine pleaded guilty to felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). Docs. 23, 28. The presentence investigation report calculated his advisory guideline range as 41 to 51 months based on a total offense level of 15 and a criminal history category VI. Doc. 39, ¶ 114. On February 7, 2017, this Court held a sentencing hearing in Blaine's case and imposed a sentence of 41 months imprisonment with 24 months of that sentence to run concurrent and 17 months to run consecutive to a sentence imposed in *United States v. Blaine*, 4:15-CR-40069-KES. Docs. 38, 40 at 2.

Blaine is currently incarcerated at Talladega Federal Correctional Institution (Talladega FCI), a medium security facility, in Talladega, Alabama. Fed. Bureau Prisons, <https://www.bop.gov/locations/institutions/tdg/> (last visited Feb. 23, 2021). Blaine is scheduled for release on August 26, 2024. *Id.* He is currently 37 years old. *Id.*

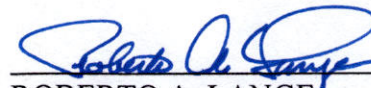
Blaine does not provide any reason or explanation for his request for compassionate release to this court. *See* Doc. 44. Recently, Blaine was denied compassionate release by Judge Karen E. Schreier in case 4:15-CR-40069-KES (D.S.D. Feb. 1, 2021) (Doc. 65). This Court has reviewed Judge Schreier's decision and agrees that Blaine has failed to present "extraordinary and compelling" circumstances to warrant relief under 18 U.S.C. § 3582(c)(1)(A). Because 17 months of Blaine's sentence in this case is to run consecutive to that imposed in 4:15-CR-40069 and Blaine is still serving his sentence in 4:15-CR-40069, his compassionate release motion in this case would not be granted even were the court so inclined. That is, he is still serving a sentence imposed by Judge Schreier who has denied Blaine's motion for compassionate release.

Therefore, it is hereby

ORDERED that Blaine's motion for compassionate release, Doc. 44, is denied.

DATED this 23rd day of February, 2021.

BY THE COURT:



ROBERTO A. LANGE
CHIEF JUDGE